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In re Application of :
KIM, June Man et al. :
Application No.: 10/560,664 : DECISION ON
PCT No.: PCT/KR04/01851 :
Int. Filing Date: 23 July 2004 : RENEWED PETITION
Priority Date: 24 July 2003 :
Attorney's Docket No.: 05-597-B : UNDER 37 CFR 1.47(b)
For: System And Method For Tracking Position Of A :
Mobile Unit Using Beacons In A Mobile :
Communication System :
:

This is a decision on applicants' "Renewed Petition Under 37 C.F.R. 1.47(b)," filed on 26 March 2007 on behalf of the assignee and the non-signing inventors June Man Kim and Noh Sang Park.

BACKGROUND

On 23 July 2004, applicants filed international application PCT/KR04/01851, claiming a priority date of 24 July 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 24 January 2006.

On 13 December 2005, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied, *inter alia*, by the requisite basic national fee and the surcharge for late filing of the oath or declaration.

On 17 April 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) is required.

On 19 October 2006, applicants submitted the declaration, a four-month extension fee, and a petition under 37 CFR 1.47(b) requesting acceptance of the application without the signature of the applicants.

On 24 January 2007, the Office mailed a Decision dismissing the 19 October 2006 petition because (1) applicants' did not provide sufficient evidence that the inventors refuse to execute the application and, (2) the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application.

On 26 March 2007, applicants filed the instant renewed petition under 37 CFR 1.47(b).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Applicants have previously satisfied elements (1), (3), (4) and (6).

With regard to item (2), the petition states that non-signing inventors June Man Kim and Noh Sang Park have refused to execute the application. The petition includes a declaration from Mr. Jiwon Lim, a person with apparent first hand knowledge that non-signing inventors June Man Kim and Noh Sang Park have refused to execute the declaration. Specifically, on 07 February 2007 a complete copy of the application papers (specification, claims and drawings) was sent to non-signing inventors June Man Kim and Noh Sang Park by both e-mail and regular postal service. On 09 February 2007, non-signing inventor Noh Sang Park contacted Mr. Jiwon Lim directly and told him that non-signing inventor June Man Kim and himself refuse to execute the declaration in the instant application (see Exhibit 6). Furthermore, Mr. Jiwon Lim sent confirmation letters to both inventors confirming their refusal to execute the declaration and did not receive any response (see Exhibit 9). Therefore, the evidence is sufficient to show that non-signing inventors June Man Kim and Noh Sang Park have refused to execute the application. Hence, item (2) has been satisfied.

With regard to item (5), the present petition states that the inventors June Man Kim and Noh Sang Park have assigned the invention to Hyundai Syscomm, Inc. ("Hyundai") and that Hyundai subsequently assigned the invention to UTStarcomm Korea Limited ("UTStarcomm"). Petitioner has adequately demonstrated a transfer of title from Hyundai to UTStarcomm (see Exhibit B, page 45/46, filed 19 October 2006). Furthermore, the renewed petition includes an appropriate legal memorandum from attorney Joo-Young Kim who states that Hyundai would have title to the present invention instead of inventors June Man Kim and Noh Sang Park. Therefore, a chain of title from inventors June Man Kim and Noh Sang Park to UTStarcomm has been sufficiently established.

CONCLUSION

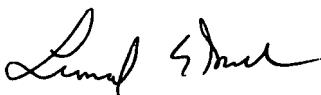
For the reasons above, the petition under 37 CFR 1.47(b) is **GRANTED**.

This application has an International Filing Date of 23 July 2004 and a date under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) of 19 October 2006.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

As provided in 37 CFR 1.47(b), a notice of the filing of this application will be forwarded to the non-signing inventors at their last known address of record.

A notice of the filing of the application under 37 CFR 1.47(b) will be published in the Official Gazette.



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